

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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|---------------------------|---|-----------------------------------|
| LISA MARDET DAVIS, | : | No. 3:09-CV-1879 |
| Plaintiff | : | |
| | : | (Judge Vanaskie) |
| v. | : | |
| | : | (Magistrate Judge Carlson) |
| DR. NELMS, et al., | : | |
| Defendant | : | |

MEMORANDUM AND ORDER

The background of this order is as follows:

The plaintiff commenced this action by filing a complaint on September 30, 2009. (Doc. 1.) In this complaint the plaintiff raises concerns about the dental care that she received in prison. On September 30 and October 2, 2009, this Court entered orders directing the plaintiff to submit appropriate *in forma pauperis* forms, and file an amended complaint within 30 days. (Docs. 6 and 7.) When the plaintiff failed to comply with this deadline, an order was entered on November 6, 2009, dismissing the case. (Doc. 12.) Three days later, on November 9, 2009, the plaintiff complied with these orders by filing an amended complaint, and by submitting proper *in forma pauperis* paperwork. (Doc. 13.) On November 19, 2009, the plaintiff then filed a document captioned appeal. (Doc. 14.) Upon review of this document, and liberally construing this *pro se* pleading as we are required to do, we are construing the

pleading as a motion for leave to file an amended complaint and to re-open this case.

Construed in this fashion, we will grant this motion.

Rule 15(a) of the Federal Rules of Civil Procedure strongly favors amendment of pleadings at the outset of litigation and provides that a party may on one occasion amend a pleading, “as a matter of course at any time before a responsive pleading is served.” Rule 15(a), F.R. Civ. P. In this case the plaintiff has, belatedly, complied with the instructions of the Court and filed an amended complaint. Therefore, she should be entitled under Rule 15 to be granted leave to amend and proceed with this litigation.

According, for the foregoing reasons, IT IS ORDERED that the plaintiff is GRANTED leave to file an amended complaint out of time, and the clerk is directed to re-open this file.

SO ORDERED, this 20th day of November, 2009.

S/Martin C. Carlson

United States Magistrate Judge